

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

LAMONT SAUNDERS : CIVIL ACTION
v. :
EDWARD CAMERON, et al. : NO. 13-5366

FILED 12/23/2013

M E M O R A N D U M

O'NEILL, J.

NOVEMBER 25, 2013

Plaintiff, a prisoner, has filed a pro se civil rights lawsuit against the Assistant District Attorney, who handled plaintiff's criminal case, and his court-appointed counsel. He is alleging that his constitutional rights have been violated, and that his court-appointed attorney committed legal malpractice.

For the following reasons, plaintiff's claims will be dismissed pursuant to 28 U.S.C. § 1915(e).

The doctrine of absolute immunity shields prosecutors from liability related to their official acts. Imbler v. Pachtman, 424 U.S. 409 (1976). A prosecutor is absolutely immune from liability for money damages under § 1983 for acts "within the scope of his duties in initiating and pursuing a criminal prosecution." Id. at 410. Plaintiff's claims against Assistant District Attorney Edward Cameron will be dismissed because there is nothing in the complaint to suggest that he acted outside of the scope of his prosecutorial duties in connection with plaintiff's criminal case.

In order to bring suit under 42 U.S.C. § 1983, plaintiff must allege that a person acting under color of state law deprived him of his constitutional rights. West v. Atkins, 487

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U.S. 42 (1988). A defense attorney, whether court-appointed or privately retained, represents only his client, and not the state, and cannot be sued under § 1983. Polk County v. Dodson, 454 U.S. 312 (1981). Therefore, J. Matthew Wolfe, Esq. may not be sued in this action, and plaintiff's claims against him must be dismissed.

A district court should generally provide a pro se plaintiff with leave to amend unless amendment would be inequitable or futile. See Grayson v. Mayview State Hosp., 293 F.3d 103, 114 (3d Cir. 2002). Here, plaintiff will not be given leave to amend because amendment would be futile, as he cannot cure the above deficiencies in his complaint.